# E. Special Conditions of Contract (SCC)

## 1. Labour

The Contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding and transport.

The Contractor shall, if required by the Employer, deliver to the Employer a return in detail, in such form and at such intervals as the Employer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Employer may require.

## 2. Compliance with Labour Regulations:

During continuance of the contract, the Contractor shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/Rules/regulations including amendments, if any, on the part of the Contractor, Employer shall have the right to deduct any money due to the Contractor including his amount of security deposit. The Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor in no case shall be treated as the employees of the Employer at any point of time.

## 3. Protection Of Environment:

The contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation. During continuance of the contract, the contractor shall abide at all times by all existing enactments on environmental

protection and rules made there under, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

## 4. ARBITRATION (CLAUSE 24):

**4.1** The procedure for arbitration shall be as follows:

(a) Any dispute or difference or claim arising out of, or in connection with, or relating to the present contract or the breach, termination or invalidity thereof, shall be referred and settled under the Arbitration Centre – Bengaluru, under Karnataka (Domestic & International) rules 2012, by one or more arbitrators appointed in accordance with its rules"

(b) Performance under the contract shall continue during the arbitration proceedings and payments due the Contractor by the Employer shall not be withheld, unless they are the subject matter of the arbitration proceedings.

## 5. INDEMNITY BOND:

5.1 It will be the responsibility of the Contractor to take Delivery, Unload and Store all the **Material/Equipment's supplied by BESCOM**. The Contractor shall execute an Indemnity Bond (as per the Proforma enclosed in Format of Annexures) in favour of the BESCOM against Loss, Damage and any Risks involved for the full value of these Materials. This Indemnity Bond shall be furnished by the Contractor before commencement of the Supplies and shall be valid till the Scheduled Date of Testing, Commissioning and handing over of the Work to the Engineer.

## 6. Defects Liability Period:

6.1 The Contractor shall warrant that the Equipment supplied by him will be new, unused and in accordance with the Contract Documents and free from defects in Material and Workmanship for a period of ***60 (sixty) months for energy meter and 12 (Twelve) months for all the equipment/materials under the scope of the contract, commencing immediately upon the satisfactory commissioning of the entire works under the contract*.** The Contractor's liability shall be limited to the replacement of any defective parts in the Equipment of his own Manufacture or those of his vendors, under normal use and arising solely from faulty Design, Materials and/or Workmanship provided always that such defective parts are repairable at the Site and are not in the meantime essential in the Commercial use of the Equipment. Such replaced/ defective parts shall be returned to the Contractor unless otherwise arranged. No repairs or replacement

shall normally be carried out by the Engineer, when the Equipment is under the supervision of the Contractor's Supervisory Engineer.

**Note: The bidder shall replace the defective meters within a period of 14 days from the date of intimation from the BESCOM authorities. The guarantee for the replaced meters shall start from the date of such replacement which shall be marked on the name plate.**

6.2 In the event of any emergency where in the judgment of the Engineer, delay would cause serious loss or Damages, repairs or adjustment may be made by the Engineer or a third Party chosen by the Engineer without advance Notice to the Contractor and the Cost of such Work shall be paid by the Contractor. In the event such action is taken by the Engineer, the Contractor will be notified promptly and he shall assist wherever possible in making necessary corrections. This shall not relieve the Contractor of his liabilities under the Terms and Conditions of the Contract.

6.3 If it becomes necessary for the Contractor to replace or renew any defective portions of the Works, the provision of this Clause shall apply to portion of the Works so replaced or renewed until the expiry of the period specified in 6.1 above, from the date of such replacement or renewal. If any defects are not remedied within a reasonable time, the Engineer may proceed to do the Work at the Contractor’s risk and Cost but without prejudice to any other rights, which the OWNER may have against the Contractor in respect of such defects.

6.4 The repaired or new parts will be furnished and erected free of Cost by the Contractor. If any repair is carried out on his behalf at the Site, the Contractor shall bear the Cost of such repairs.

6.5 The Cost of any special or general overhaul rendered necessary during the maintenance period due to defects in the Equipment or defective Work carried out by the Contractor, the same shall be borne by the Contractor.

6.6 The acceptance of the Equipment by the Engineer shall in no way relieve the Contractor of his obligations under this Clause.

6.7 In the case of those defective parts which are not repairable at Site but are essential for the Commercial Operation of the Equipment, the Contractor and the Engineer shall mutually agree to a program of replacement or renewal which will minimize interruption to the maximum extent, in the Operation of the Equipment.

## 7. Force Majeure:

7.1 Force Majeure is herein defined as any cause which is beyond the control of the Contractor or the Owner as the case may be, which they could not foresee or with a reasonable amount of diligence could not have foreseen and which substantially affects the Performance of the Contract, such as:

a) Natural Phenomena, including but not limited to Floods, Droughts, Earthquakes and Epidemics.

b) Acts of any Government, domestic or foreign, including but not limited to War, declared or undeclared, Priorities, Guarantees, and Embargoes. Provided either Party shall, within fifteen (15) days from the occurrence of such a cause, notify the other in writing of such causes.

7.2 The Contractor or the Owner shall not be liable for delays in performing his obligations resulting from any Force Majeure cause as referred to and/or defined above. The date of Completion will subject to hereinafter provided, is extended by a reasonable time even though such cause may occur after Contractor's Performance of obligation has been delayed due to other causes.

**8. Settlement of Disputes:**

8.1 Any dispute(s) or difference(s) arising out of or in connection with the Contract shall, to the extent possible, be settled amicably between the Parties.

8.2 If any dispute or difference of any kind whatsoever shall arise between the Owner and the Contractor, arising out of the Contract for the Performance of the Works whether during the progress of the Works or after its Completion or whether before or after the termination, abandonment or breach of the Contract, it shall, in the first place, be referred to and settled by the Engineer, who, within a period of thirty, (30) days after being requested by either Party to do so, shall give written Notice of his decision to the Owner and the Contractor.

8.3 Save as hereinafter provided, such decision in respect of every matter so referred shall be final and binding upon the Parties until the Completion of the Works and shall forthwith be given effect to by the Contractor who shall proceed with the Works with all due diligence.

8.4 During settlement of disputes and Court /Arbitration Proceedings, both Parties shall be obliged to carry out their respective obligations under the Contract.

## 9. Bankruptcy:

9.1 If the Contractor shall become bankrupt or otherwise insolvent or have a receiving Order made against him or compound with his Creditors, or being a Corporation, commence to be wound up, not being a voluntary winding up for the purpose only of amalgamation/ reconstruction, or carry on its business under a receiver for the benefit of its Creditors or any of them, the Owner will be at liberty:

a) To terminate the Contract forthwith by Notice in writing to the Liquidator or Receiver or to any Persons in whom the Contract may become vested and to act in the manner Provide in Clause 49.7(of CC) infra titled 'Contractor's Default Liabilities', as though the last mentioned Notice has been the Notice referred to in such Clause and the Equipment Materials and Works have been taken out of the Contractor's hands;

b) To give such Liquidator, Receiver, or other Persons the option of carrying out the Contract subject to his providing a Guarantee, for the due and faithful Performance of the Contract, up to an amount, to be determined by the Owner.

## 10. Inspection and Tests:

10.1 The successful bidder shall give the inspection call letter in advance before 10 days from the **schedule date of inspection to the Chief Engineer (Ele), BRAZ, BESCOM for inspection,** which include **date and place at which the material will be ready for inspection**. After inspection of the material and conformity with the relevant standards, necessary dispatch instructions will be issued by the Chief Engineer (Ele.), BRAZ, BESCOM.

10.2 The Owner or his Representative shall have the right to inspect and/or to Test the Goods to confirm their conformity to the Contract. The Owner will depute Engineers for inspecting the equipment’s / materials. The to and fro travel expenses from the place of working of officials deputed for inspection, boarding charges, lodging charges and other incidental expenses of the inspecting Engineers are to be borne by the Owner. The Technical Specifications shall specify the Inspections and Tests the Owner requires to be done and the place

where they are to be conducted. The Owner shall notify the Supplier/Contractor in writing on the identity of any Representatives authorized for these purposes.

10.3 The Inspection and Tests may be conducted on premises of the Supplier/Contractor or its Sub-vendor at point of delivery and/or at the Goods final destination. When conducted on the premises of the Supplier/ Contractor, all reasonable facilities and assistance including access to Drawings and Production Data shall be furnished to the Inspectors at no charge to the Owner.

10.4 An inspected or Tested Goods fail to conform to the Specifications, the OWNER may reject them and the Supplier / Contractor shall either replace the rejected Goods or make all alterations necessary to meet Specification requirements free of Cost to the OWNER. Should the Contractor/ his Sub-Supplier fails to Offer Materials/ Equipment for inspection on the specified date or the Materials fails during the Test, all the expenses incurred by, the OWNER for subsequent inspections should be borne by the Contractor.

10.5 The levy of re-inspection charges on the default firms when OWNER Officers are deputed for 2nd time for inspection of materials/equipment which were not ready for inspection on first visit or materials rejected on first time as follows:

(a) Rs.15000/- per person, per day + GST prevailing/applicable on the day of inspection + any other Tax as per statutory requirement.

+

(b) Actual to & Fro charges by Air/Train/Bus. (As the case may be)

10.6 The OWNER's right to inspect, Test and, where necessary, reject the Goods after the arrival of the Goods shall in no way be limited or waived by reason of the Goods having previously been inspected, Tested and passed by the OWNER or his Representative prior to the Goods transportation.

10.7 Nothing in Clause 10.2 to 10.5 shall, in any way, release the Supplier / Contractor from any Guarantee or other obligations under this Contract.

10.8 If the equipment’s/materials are not met IS/IEC standard at factory tests, then Owner will reject the equipment’s/materials and the contractor shall offered for re-inspection by paying the re-inspection charges as notified by the owner.

10.9 BESCOM reserves the right to randomly select samples from each lot of the **materials** supplied under the Contract, through an authorized BESCOM officer/official and a representative of PMC in the presence of the authorized representative of the Contractor. The randomly selected samples shall be properly sealed, with the signatures of both parties affixed on the samples, and

shall be sent to **M/s CPRI or any Government-approved laboratory for conducting type tests** in accordance with IS / IEC / BESCOM specifications.

10.10 If the randomly selected sample fails in any of the test prescribed, the entire lot will be rejected and the contractor has to replace the entire lot at his own cost.

10.11 Even the replaced lot shall be subjected to testing as described in 10.9 above. The lot shall be accepted only after the test results of the samples are satisfactory.

10.12 The cost of type tests shall be borne by BESCOM for the trial(s) in which the samples pass the tests. For trial(s) in which the samples fail the tests, the cost shall be borne by the Contractor.

**11.0 Notices:**

11.1 Any Notice given by one Party to the other, pursuant to Contract, shall be sent in writing by Registered Post with Acknowledgement Due or Fax. Fax Notice shall be confirmed in writing to the address specified in the Contract.

11.2 Notice(s) shall be deemed to have been duly and properly served upon the Parties hereto, if sent by any of the above-mentioned methods to the address mentioned in the Contract.

11.3 A Notice shall be effective when issued by one of the above-mentioned means or on the Notice's effective date, whichever is later.

**Chief Engineer (Ele)**
**BRAZ, BESCOM**